

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DAVID M. OMES,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-13-0375-HE
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of the Social,	)	
Security Administration	)	
	)	
Defendant.	)	

**ORDER**


Plaintiff David M. Omes filed this action seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying his application for disability insurance benefits. Consistent with 28 U.S.C. § 636(b)(1)(B), the case was referred to Magistrate Judge Charles B. Goodwin, who recommends that the Commissioner's decision be reversed and the matter remanded for further proceedings. The magistrate judge determined that the administrative law judge failed to adequately and explicitly evaluate the finding of disability issued by the U.S. Department of Veteran Affairs, as well as the evidence underlying that finding, in accordance with Social Security rules and regulations, Tenth Circuit case law, and the directives of the Appeals Council. That error, the magistrate judge found, required the reversal of the Commissioner's decision, and made it unnecessary to address Plaintiff's remaining contentions.

The parties, having failed to object to the Report and Recommendation, have waived their right to appellate review of the factual and legal issues it addressed. United States v.

One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996); *see* 28 U.S.C. § 636(b)(1)(C). Accordingly, the court adopts the Report and Recommendation, **REVERSES** the final decision of the Commissioner and **REMANDS** the case for further proceedings consistent with the Report and Recommendation, a copy of which is attached to this order. This decision does not suggest or imply any view as to whether plaintiff is or is not disabled, or what result should be reached on remand.

**IT IS SO ORDERED.**

Dated this 17th day of September, 2014.



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JOE HEATON  
UNITED STATES DISTRICT JUDGE